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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,143	01/21/2000	William J. Baer	STL000020US1	5414

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EXAMINER
SMITH, PETER J

ART UNIT	PAPER NUMBER
2176	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/489,143	BAER ET AL.
		Examiner	**Art Unit**	
		Peter J Smith	2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on *14 December 2004*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-27* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-27* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications: amendment filed on 12/14/2004.

2.   Claims 1-27 are pending in the case. Claims 1, 9, and 17 are independent claims.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   **Claims 1-2, 9-10, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated**

by Dedrick, US 5,768,521 patented 6/16/1998.

        Regarding independent claims 1, 9, and 17, Dedrick discloses determining a content

count for a content object and determining from the content object count a price for the content

object in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 – col. 5 line 25.

        Regarding dependent claims 2, 10, and 18, Dedrick discloses determining a content

count for each content entity, and summing the entity content counts to obtain a content count for

the content object in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 – col. 5 line 25.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   **Claims 3-6, 11-14, 19-22, and 25-27 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Dedrick, US 5,768,521 patented 6/16/1998.

Regarding dependent claims 3, 11, and 19, Dedrick teaches determining a unit of

information count for the content entity in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 –

col. 5 line 25. Dedrick teaches specific examples that the content count unit may be in bytes or

words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a

character count. However, Dedrick's teaching of a byte unit count will correlate exactly in

proportion to the size of the content entity just as a character count will correlate exactly in

proportion to the size of the content entity. Each additional character contained in the content

entity will increase the representative byte count by the same unit amount that a character count

would increase. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have modified Dedrick to have used a character for the content

entity.

Regarding dependent claims 4, 12, and 20, Dedrick teaches determining a unit of

information count for the content entity in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 –

col. 5 line 25. Dedrick teaches specific examples that the content count unit may be in bytes or

words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a

character count. However, Dedrick's teaching of a byte unit count will correlate exactly in

proportion to the size of the content entity just as a character count will correlate exactly in

proportion to the size of the content entity. Each additional character contained in the content

entity will increase the representative byte count by the same unit amount that a character count

would increase.

Determining a page count from the character count is merely changing the units of the

count from characters to pages. Dedrick teaches a information unit count of bytes in col. 4 lines

63-64 and megabytes in col. 5 lines 21-23. The two example units of Dedrick are related exactly

as the characters and pages of the claimed invention. Therefore, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to have modified Dedrick to

have converted characters into pages so that the cost computation could have been simplified.

Regarding dependent claims 5, 13, and 21, Dedrick teaches determining a unit of

information count for the content entity in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 –

col. 5 line 25. Dedrick teaches specific examples that the content count unit may be in bytes or

words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a

character count. However, Dedrick's teaching of a byte unit count will correlate exactly in

proportion to the size of the content entity just as a character count will correlate exactly in

proportion to the size of the content entity. Each additional character contained in the content

entity will increase the representative byte count by the same unit amount that a character count

would increase. Dedrick teaches counting the number of bytes in a content entity, determining

the content entity type, and determining an average character count for content entities of that

type in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 – col. 5 line 25.

Regarding dependent claims 6, 14, and 22, Dedrick teaches determining a unit of

information count for the content entity in col. 1 line 62 – col. 2 line 22, and col. col. 4 line 26 –

col. 5 line 25. Dedrick teaches specific examples that the content count unit may be in bytes or

words in col. 4 lines 63-64. Dedrick does not specifically teach that the unit of information is a

page count. However, Dedrick's teaching of a byte unit count will correlate exactly in

proportion to the size of the content entity just as a page count will correlate exactly in

proportion to the size of the content entity. Each additional page contained in the content entity

will increase the representative byte count by the same unit amount that a page count would

increase. Dedrick teaches multiplying the page count with a predetermined price per page in col.

1 line 62 – col. 2 line 22, and col. col. 4 line 26 – col. 5 line 25.

Regarding dependent claims 25, 26, and 27, Dedrick teaches wherein the content

object comprises electronic text, audio, video, graphics, animation or other electronic

information in col. 4 lines 26-51. An electronic book is a composition of electronic information

as is described by Dedrick. Dedrick teaches wherein the electronic information content entity is

interactively created by the end user in col. 4 lines 39-51. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to have modified Dedrick to have

enabled an end user to have interactively created an electronic book by selecting from a plurality

of electronic information content entities so that the user could have had a customized electronic

book.

7.   **Claims 7-8, 15-16, and 23-24 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Dedrick, US 5,768,521 patented 6/16/1998 in view of Khan et al.

(hereinafter "Khan"), US 6,199,054 B1 filed 3/5/1998.

Regarding dependent claims 7, 15, and 23, Dedrick teaches wherein a user may

interactively select from a plurality of content entities to form a customized content object in col.

1 line 62 – col. 2 line 22, and col. col. 4 line 26 – col. 5 line 25. Dedrick teaches variable content

entity pricing in col. 5 lines 23-25. Dedrick does not teach that at least one of the content entities

comprises user provided content. Khan does teach wherein a user may selectively add a user-

provided content entity subject to price metering in col. 3 lines 61-64. It would have been

obvious to one of ordinary skill in the art at the time the invention was made to have combined

the user-provided content teaching of Khan into Dedrick to have created the claimed invention.

It would have been obvious and desirable to have allowed the user to have provided content to

further customize the interactive selection of content entities composing the content object.

Regarding dependent claims 8, 16, and 24, Dedrick teaches wherein the price for user-

provided material is determined in a first manner if the content count exceeds a predetermined

content count maximum, and is determined in a second manner if the content count does not

exceed the predefined maximum in col. 5 lines 23-25.

Response to Arguments

8.   Applicant's arguments filed 12/14/2004 have been fully considered but they are not

persuasive. Regarding Applicant's argument in pages 7-8 that Dedrick does not disclose the

limitations of independent claims 1, 9, and 17, the Examiner respectfully disagrees. Independent

claims 1, 9, and 17 merely require the limitations of determining a content count for a content

object and determining from the content count a price for the content object. The invention

disclosed by Dedrick enables the metering and cost calculation of units of electronic information

(see col. 4 lines 52-56). Examples of the electronic information are text and video content and

advertisements (see col. 4 lines 26-38) and the electronic information may be contained in a

content database (see col. 4 lines 29-31). Examples of units may include, but are not limited to, views, bytes, and time. Dedrick "counts" the units of the content object in order to calculate a cost to charge the user subscribing to the electronic information.

The Examiner believes the feature of Dedrick which counts units of electronic information clearly reads upon the claimed limitation "determining a content count for the content object". The Examiner believes the feature of Dedrick which calculates a cost to charge the user based on the type of electronic information selected and units of the electronic information consumed clearly reads upon "determining from the content count a price for the content object". Dedrick discloses that the each electronic information may comprise only a portion of the content database (see col. 4 lines 26-38). Therefore, the content database of Dedrick has a plurality of content entities and thus the Examiner believes Dedrick clearly discloses "a content object having a plurality of content entities".

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Peter J Smith whose telephone number is 571-272-4101. The

examiner can normally be reached on Mondays-Fridays 7:00am-3:30pm.

     If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Joseph H Feild can be reached on 571-272-4090. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

     Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PJS
2/23/2005

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER